

### **REMARKS**

#### **I. Status of Application**

Claims 1-22 and 25 are all the claims pending in the present Application. By this Amendment, Applicant incorporates the subject matter of claims 2 and 13 into independent claims 1 and 12, respectively. Claims 3, 10, 11, 14, 21 and 22 have been amended to adjust their dependency. Claims 2, 13 and 23 have been canceled without prejudice.

#### **II. Claim Rejections Under 35 U.S.C. § 101**

The Advisory Action of August 14, 2009 did not indicate whether the rejection under Section 101 was maintained. During the telephone call of August 20, 2009, the Examiner confirmed that the rejection under Section 101 has been withdrawn.

#### **III. Claim Rejections Under 35 U.S.C. § 112**

During the telephone call of August 20, 2009, the Examiner also indicated that he would reconsider the rejection of claim 1 under 35 U.S.C. § 112, sixth paragraph. Applicant respectfully asserts that the specification discloses sufficient corresponding structure for performing the function recited in the means-plus-function limitations of claim 1.

The proper test for meeting the definiteness requirement is that the corresponding structure material (or acts) of a means (or step)-plus-function limitation must be disclosed in the specification itself in a way that one skilled in the art will understand what structure (or material or acts) will perform the recited function. *See Atmel Corp. v. Information Storage Devices, Inc.*, 198 F.3d 1374, 1381, 53 USPQ2d 1225, 1230 (Fed. Cir. 1999).

Structure for performing the function recited in the claims can be found throughout the specification, and at least in ¶¶ [0058]-[0061]. For example, the specification describes a “demodulation symbol area determining section (112) which classifies and groups demodulation symbol points of all subcarriers in all transmission routes in accordance with preset areas.” (¶ [0059]). The demodulation symbol area determining section (112) would readily be understood by a person of ordinary skill in the art as a type of processing device (*i.e.*, a processor). Likewise, claim 23 recites “a demodulation area determining section that groups all subcarriers into a plurality of subcarrier groups.” Since the original claims are part of the disclosure, the original disclosure provides adequate structure for performing the function recited in claim 1. Likewise, FIG. 1 provides a block diagram, illustrating the structural interconnection of the various sections of exemplary embodiments of the invention.

Whether or not the specification adequately sets forth structure corresponding to the claimed function necessitates consideration of that disclosure from the viewpoint of one skilled in the art. *See Budde v. Harley-Davidson, Inc.*, 250 F.3d 1369, 1376 (Fed. Cir. 2001) (citing *N. Am. Vaccine, Inc. v. Am. Cyanamid Co.*, 7 F.3d 1571, 1579, 28 USPQ2d 1333, 1339 (Fed. Cir. 1993); *cf. In re Ghiron*, 442 F.2d 985, 991, 169 USPQ 723, 727 (CCPA 1971) (stating that “if such a selection would be ‘well within the skill of persons skilled in the art,’ such functional-type block diagrams may be acceptable and, in fact, preferable if they serve in conjunction with the rest of the specification to enable a person skilled in the art to make such a selection and practice the claimed invention with only a reasonable degree of routine experimentation”)); *see also Intel Corp. v. VIA Technologies, Inc.*, 319 F.3d 1357, 1366, 65 USPQ2d 1934, 1941 (Fed. Cir. 2003) (The “core logic” structure that was modified to perform a particular program was held to be

adequate corresponding structure for a claimed function although the specification did not disclose internal circuitry of the core logic to show exactly how it must be modified.).

Furthermore, “[t]here is **a strong presumption that an adequate written description of the claimed invention is present when the application is filed.**” (See MPEP § 2163-I-A; *see also In re Wertheim*, 541 F.2d 257, 263, 191 USPQ 90, 97 (CCPA 1976)). The burden is on the Examiner to rebut this presumption. The Examiner has not explained why one of ordinary skill in the art would find the structure recited in the specification to be deficient or lacking.

Applicant respectfully requests for the Examiner to withdraw the rejection.

#### **IV. Claim Rejections Under 35 U.S.C. § 102**

The Examiner has rejected claims 1 and 12 under 35 U.S.C. § 102(e) as allegedly being anticipated by Farlow et al. (US 7,072,693).

The Examiner has also indicated that dependent claims 2-11, 13-22 and 25 would be allowable if rewritten in independent form. Applicant has amended claims 1 and 12 to include the subject matter of allowable claims 2 and 13, and as such respectfully asserts that all of the claims remaining in the Application are allowable.

#### **V. Conclusion**

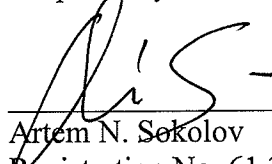
In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

This Amendment is being filed via the USPTO Electronic Filing System (EFS).

Applicant herewith petitions the Director of the USPTO to extend the time for reply to the

above-identified Office Action for an appropriate length of time if necessary. Any fee due under 37 U.S.C. § 1.17(a) is being paid via the USPTO Electronic Filing System (EFS). The USPTO is also directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

  
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